

REMARKS

Claims 1-68 are currently pending in this application.

1. Priority

The Official Action states that a certified translation of the foreign priority papers has not been made of record in accordance with 37 C.F.R. §1.55, and, as such, the priority date cannot be granted.

Applicant respectfully submit that further to the telephone call with the Examiner and Tanya E. Harkins, on December 28, 2005, the instant application is a continuation of application Serial No. 09/582,212 filed July 19, 2000, now U.S. Patent No. 6,436,953, which is a 35 U.S.C. §371 national phase of PCT/EP99/06899, filed September 17, 1999, which in turn claims priority to German Application No. 19843504.5 and European Application No. 98117988.0, both filed September 23, 1998. Priority was properly claimed in the international stage of the international application, and the claim for priority was acknowledged. Therefore, upon confirmation by the Examiner that the national stage application file contains a copy of the certified copy of the priority document submitted to the International Bureau, granting of the benefit of the priority date is proper in the instant application. On this basis, the

Examiner agreed to grant the benefit of the priority date.

Accordingly, applicant respectfully requests that the Examiner acknowledge the grant of benefit of the priority date.

2. Rejections of Claims 1-67 under 35 U.S.C. § 103(a)

The Official Action states that claims 1-67 stand doubly rejected under 35 U.S.C. §103(a) for the following reasons, in relevant part:

Claims 1-67 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Senn-Bifinger et al. WO98/42707.

Applicant respectfully points out to the Examiner upon granting the benefit of priority in the instant application, the earliest effective filing date will be September 23, 1998. The cited reference, however, has a publication date of October 1, 1998. As such WO98/42707 is an improper reference against the instant application, and the basis for the rejections of these claims is rendered moot.

Accordingly, applicant respectfully requests that the Examiner reconsider and withdraw the rejections of claims 1-67.

**3. Rejection of claims 1-68 for obviousness-type double
patenting**

The Official Action states that claims 1-68 stand rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 2-7 of U.S. 6,436,953 or claims 1-2 of U.S. Patent No. 6,696,460.

With regard to claims 1-68, Applicant respectfully traverses this rejection. However, solely to remove the basis for this rejection, Applicant has filed herewith a Terminal Disclaimer over U.S. Patent No. 6,436,953 and 6,696,460, thereby obviating the present rejection.

Accordingly, Applicant respectfully requests that the Examiner reconsider and withdraw the rejection of pending claims 1-68.

CONCLUSION

Based upon the above remarks and attached terminal disclaimer, the presently claimed subject matter is believed to be novel and patentably distinguishable over the prior art of record. The Examiner is therefore respectfully requested to grant the benefit of priority, as well as reconsider and withdraw the rejection of pending claims 1-68. Favorable action with an early allowance of the claims pending in this application is earnestly solicited.

The Examiner is welcomed to telephone the undersigned attorney

if she has any questions or comments.

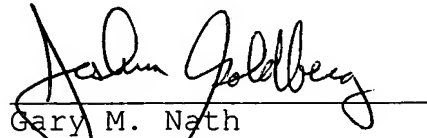
Respectfully submitted,

NATH & ASSOCIATES PLLC

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A handwritten signature in black ink, appearing to read "Gary M. Nath", is written over a horizontal line.

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